

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

RECEIVED -CC

JAN 23 2004

Federal Communications Commission
Bureau / Office

In the Matter of)

)
 Amendment of Section 73.622(b),
 Table of Allotments,
 Digital Television Broadcast Stations
 (Corpus Christi, Texas))

MM Docket No. 99-277
 RM-9666

RECEIVED

JAN 23 2004

To: Chief, Video Division, Media Bureau

Federal Communications Commission
Office of the Secretary**OPPOSITION TO MOTION TO DISMISS**

1 The Community Broadcasters Association ("CBA") hereby opposes the Motion To Dismiss filed by Channel 3 of Corpus Christi, Inc ("KIII") on January 16, 2004. Channel 3 asks the Commission to dismiss the "Comments in Support of Petition for Reconsideration" filed by CBA. CBA supported the Petition for Reconsideration filed by Channel 7 of Corpus Christi, Inc ("Channel 7"). KIII claims that the Commission cannot entertain CBA's pleading because the pleading comes too late to be treated as a comment in the rule making, and CBA has not met the requirements of Section 1.429(b) of the Rules.

2 KIII is trying to treat CBA's pleading as a separate petition for reconsideration, but that is not what CBA filed. CBA supported a petition for reconsideration filed by a party that was clearly entitled to file such a petition. Therefore, it is improper to disregard CBA's pleading on the ground that CBA is a new participant. As to Section 1.429(b), CBA did not present any "new facts" in its Comments, so Section 1.429(b), which addresses the submission of new facts, does not apply. To the extent that the fact that the Commission disregarded the Community Broadcasters Protection Act of 1999 is "new" information, there was an error of law that is statutorily forbidden no matter when the issue is raised.

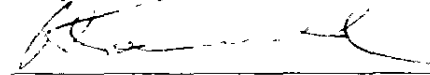
 at 4

3. If CBA had given a statement to Channel 7 to submit as an attachment to Channel 7's petition for reconsideration, none of KIII's arguments would apply. It should make no difference that CBA submitted an independent statement. It is important that the Commission know that the national trade association of Class A and low power television stations believes that the Media Bureau committed a serious error of law, and CBA is entitled to express that point.

4. Accordingly, KIII's Motion To Dismiss should be denied.

Irwin, Campbell & Tannenwald, P C
1730 Rhode Island Ave , N W , Suite 200
Washington, DC 20036-3101
Tel 202-728-0400
Fax 202-728-0354

Respectfully submitted,



Peter Tannenwald
Gregory V. Haledjian¹

January 23, 2004

Counsel for the Community
Broadcasters Association

¹ Admitted in Maryland. Not admitted in the District of Columbia.

CERTIFICATE OF SERVICE

I, Daniella K. Mattioli Knight, do hereby certify that I have, this 23rd day of January, 2004, caused to be sent by first class United States mail, postage prepaid, copies of the foregoing "Opposition to Motion To Dismiss" to the following

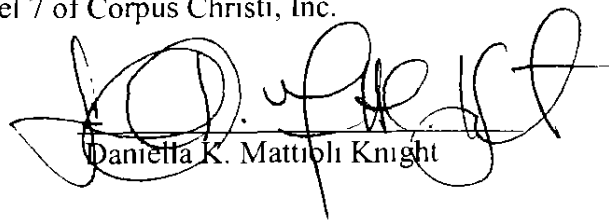
Robert B. Jacobi, Esq.
Cohn and Marks
1920 N St., N.W., Suite 300
Washington, DC 20036
Counsel for Channel 3 of Corpus Christi, Inc

Margaret L. Miller, Esq
Dow, Lohnes & Albertson
1200 New Hampshire Ave., N.W., Suite 800
Washington, DC 20036-6082
Counsel for the University of Houston System

Margaret L. Tobey, Esq
Morrison & Foerster
2000 Pennsylvania Ave., N.W., Suite 5500
Washington, DC 20006
Counsel for Alamo Public Telecommunications Council

Ms. Minerva R. Lopez
115 West Avenue D
Robstown, TX 78380

Service is hereby accepted on behalf of Channel 7 of Corpus Christi, Inc.
and Sound Leasing, Inc


Daniella K. Mattioli Knight